

KEVIN V. RYAN (CSBN 118321)
United States Attorney

MARK L. KROTOSKI (CSBN 138549)
Chief, Criminal Division

PETER B. AXELROD (CSBN 190843)
LAUREL BEELER (CSBN 187656)
Assistant United States Attorneys

450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
Telephone: (415) 436-6774
Facsimile: (415) 436-7234

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. CR 05-00395 CRB
)	
Plaintiff,)	<u>REQUEST, STIPULATION AND ORDER</u>
)	
v.)	
)	
HYE CHA KIM,)	
)	
Defendant.)	

This matter is currently on the Court's calendar for November 1, 2006. Through counsel, defendant Hye Cha Kim and the United States ask the Court to (a) vacate the November 1, 2006 date based on the defendant's anticipated plea agreement, (b) set a date of November 29, 2006 for change-of-plea, and (c) exclude time under the Speedy Trial Act, 18 U.S.C. § 3161 from November 1, 2006, to November 29, 2006.

1. The parties are currently engaged in plea negotiations and request that the Court set the matter for November 29, 2006, for status/change-of-plea.

2. Based on the on-going negotiations, defense counsel needs time to review certain discovery. The parties anticipate further discussions to resolve the case.

ORDER
CR 05-00395 CRB

3. The parties agree that the time between November 1, 2006 and November 29, 2006 should be excluded from the Speedy Trial clock. Previously, the Court has declared this case complex. See 18 U.S.C. § 3161(h)(8)(B)(ii). Further, defense counsel needs time to review additional materials from the government and investigate the immigration consequences of a plea agreement. The parties agree that a continuance is necessary for the effective preparation of defense counsel, taking into account the exercise of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv). Further, given counsels' schedules, a continuance is appropriate based on continuity of counsel. Id. The parties also agree that the ends of justice served by excluding the period from November 1, 2006 to November 29, 2006 outweigh the interest of the public and the defendant in a Speedy Trial. See id. § 3161(h)(8)(A).

STIPULATED:

October 30, 2006	/S/ PETER B. AXELROD _____
DATE	PETER B. AXELROD LAUREL BEELER Assistant United States Attorneys

October 30, 2006	/S/ SCOTT SUGARMAN _____
DATE	SCOTT SUGARMAN Attorney for Hye Cha Kim

ORDER

For good cause shown, and for the reasons stated above, the Court (a) vacates the November 1, 2006, hearing date for defendant Hye Cha Kim based on the anticipated change-of-plea, (b) sets the matter for status/change-of-plea on November 29, 2006, at 2:15 p.m., and (c) excludes times under the Speedy Trial Act, 18 U.S.C. § 3161, from November 1, 2006 to November 29, 2006. The Court finds that the failure to grant the requested exclusion would deny defense counsel reasonable time necessary for effective preparation taking into account the exercise of

1 due diligence. Further, the Court find the exclusion warranted based on continuity of counsel.
2 The Court also finds the exclusion warranted on complexity grounds, under 18 U.S.C. §
3 3161(h)(8)(B)(ii). Thus, the Court finds that the ends of justice served by granting the requested
4 exclusion outweigh the best interest of the public and the defendant in a speedy trial and in the
5 prompt disposition of criminal cases. The Court therefore concludes that this exclusion of time
6 should be made under 18 U.S.C. §§ 3161(h)(8)(A), (h)(8)(B)(ii) and (h)(8)(B)(iv).

7 IT IS SO ORDERED.

8
9 DATED: Oct. 31, 2006

